

## CHAPTER 131

### HEALTH CARE EMPLOYMENT AGENCIES, HEALTH CARE EMPLOYMENT AGENCY WORKERS, AND HEALTH CARE ENTITIES — SERVICES PROVIDED, REGISTRATION FEES, AND EMPLOYMENT CONTRACTS

H.F. 357

AN ACT relating to health care employment agencies, health care employment agency workers, and health care entities, providing for the use of annual registration fees, and including retroactive applicability provisions.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. [Section 135Q.1](#), Code 2023, is amended to read as follows:

#### **135Q.1 Definitions.**

As used in [this chapter](#), unless the context otherwise requires:

1. “Department” means the department of inspections and appeals.
2. ~~“Direct services” means services provided to consumers through person-to-person contact. “Direct services” excludes services performed by persons in a health care entity setting that do not involve the provision of any service or treatment to a consumer of a health care entity. “Direct services” does not include the practice of medicine and surgery or osteopathic medicine and surgery by an individual licensed under [chapter 148](#) or the practice of nursing by an advanced registered nurse practitioner or an advanced practice registered nurse licensed under [chapter 152](#) or [152E](#).~~
3. 2. “Health care employment agency” or “agency” means an agency that contracts with a health care entity in this state to provide agency workers for temporary, or temporary-to-hire, direct hire, or other contract or employee placements.
4. 3. “Health care employment agency worker” or “agency worker” means an individual who contracts with or is employed by a health care employment agency to provide direct services or nursing services to health care entity consumers.
5. 4. “Health care entity” means a facility, agency, or program licensed or certified facility, organization, or agency operated to provide services and supports to meet the health or personal care needs of consumers by the department or by the centers for Medicare and Medicaid services of the United States department of health and human services.
6. 5. “Managing entity” means a business entity, owner, ownership group, chief executive officer, program administrator, director, or other decision maker whose responsibilities include directing the management or policies of a health care employment agency. “Managing entity” includes an individual who, directly or indirectly, holds a beneficial interest in a corporation, partnership, or other business entity that constitutes a managing entity.
7. 6. “Nursing services” means those services which may be provided only by or under the supervision of a nurse. “Nursing services” includes services performed by a registered nurse, a licensed practical nurse, a certified nurse aide, a certified medication aide, a home health aide, a medication manager, or by noncertified or nonlicensed staff providing personal care as defined in [section 231C.2](#). “Nursing services” does not include the practice of nursing by an advanced registered nurse practitioner or an advanced practice registered nurse licensed under [chapter 152](#) or [152E](#).

Sec. 2. [Section 135Q.2, subsections 1 and 3](#), Code 2023, are amended to read as follows:

1. A health care employment agency operating in the state shall register annually with the department. Each separate location of a health care employment agency shall register annually with and pay an annual registration fee of five hundred dollars to the department. The department shall issue each location a separate certification of registration upon approval of registration and payment of the fee. The annual registration fees shall be retained by the department as repayment receipts as defined in [section 8.2](#).
3. *a.* A health care employment agency shall not do any of the following:
  - (1) Restrict in any manner the employment opportunities of an agency worker by including a non-compete clause in any contract with an agency worker or health care entity.

(2) In any contract with an agency worker or health care entity, require payment of liquidated damages, employment fees, or other compensation if the agency worker is subsequently hired as a permanent employee of the health care entity.

b. [This subsection](#) shall not apply to a contract between a health care employment agency and an agency worker or a health care entity if the contract meets all of the following criteria:

(1) The contract is entered into for the purpose of placing an agency worker the health care employment agency assisted in obtaining authorization to work in the United States.

(2) The contract contains an initial duration term of not less than twenty-four months and a total duration term, including any renewals or extensions, of not more than thirty-six months.

(3) The contract requires the agency worker to work for a single health care entity for the entire duration of the contract.

b. c. Any contract that violates [this subsection](#) shall be unenforceable in court.

Sec. 3. RETROACTIVE APPLICABILITY. This Act applies retroactively to any contract between a health care employment agency and an agency worker or health care entity referred to under [section 135Q.2](#) that was entered into or executed on or after January 1, 2019.

Approved June 1, 2023